

EXHIBIT M

GARRY MCGIBONEY
UNITED STATES vs STATE OF GEORGIA

June 08, 2022

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

| | | |
|---------------------------|---|-----------------------|
| UNITED STATES OF AMERICA, |) | CIVIL ACTION |
| Plaintiff, |) | NO. 1:16-cv-03088-ELR |
| |) | |
| vs. |) | |
| |) | |
| STATE OF GEORGIA, |) | |
| |) | |
| Defendants. |) | |
| - - - - - |) | |

VIDEOTAPE DEPOSITION OF
GARRY MCGIBONEY

Wednesday, June 8, 2022, 9:28 a.m., EST

HELD AT:

Robbins Alloy Belinfante Littlefield LLC
500 14th Street, N.W.
Atlanta, Georgia 30318

WANDA L. ROBINSON, CRR, CCR, No. B-1973
Certified Shorthand Reporter/Notary Public

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1 Q How are the GNETS out of IDEA compliance?

2 A I don't recall.

3 Q Do you recall anything about this email or
4 what you meant here?

5 A No, I don't.

6 Q In your opinion as a psychologist focused
7 on student mental health, what kinds of behavioral
8 health services should be provided to students with
9 emotional and behavioral disabilities in GNETS?

10 A Depends on what they need.

11 Q Can you give me some samples of the kinds
12 of services --

13 A GNETS?

14 Q -- that they would need?

15 A Well, I have not worked in a GNETS, so I
16 couldn't fully answer that question. Again, it
17 would depend on what the IEP calls for, because
18 mental health is on a scale of 1 to 10 as far as
19 severity. So it depends on what the IEP asks for.

20 Q Do you understand the IEPs of these
21 students to require a high level of need?

22 MR. BEDARD: Object to form.

23 A I would think so with GNETS.

24 Q Would you think that students with this
25 level of need would need counseling?

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1 Q Can you explain to me how Apex actually
2 gets providers into schools?

3 A That's a good question. I'm not certain.

4 It's a complex process for two reasons:
5 One is because of the workforce shortage, and the
6 other is transportation and location of the schools
7 and the provider.

8 Q Can you tell me what you do know about how
9 that process works?

10 A That's entirely up to DBHDD. They make
11 all the selections of the providers and they select
12 the schools.

13 Q Does the Apex program involve a
14 partnership between Community Service Boards and
15 schools?

16 A I don't know.

17 Q So it's your understanding DBHDD has
18 direct responsibility over the Apex program?

19 A They do. It's their program.

20 Q Why was it set that way?

21 MR. BEDARD: Object to form; calls for
22 speculation.

23 A I don't know.

24 MS. LILL: I'm going to hand the court
25 reporter what I'd like to have marked as

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1 criteria for GNETS services benefit, in theory, from
2 the services offered through Apex?

3 MR. BEDARD: Object to form.

4 A If the therapist was in the building.

5 Q Are Apex services available to students in
6 the GNETS program?

7 A I don't know if they are one of the 700
8 schools or not. I don't recall.

9 Q Do you know of any category of students
10 who are not eligible for Apex services for any
11 reason?

12 A I'm not aware of any.

13 MS. LILL: I'm going to hand the court
14 reporter what I'd like to have marked as
15 Plaintiff's Exhibit 108.

16 (WHEREUPON, Plaintiff's Exhibit-108 was
17 marked for identification.)

18 BY MS. LILL:

19 Q So this document was produced to the
20 United States and bears the Bates label GA00557687.

21 It is a document, an email exchange,
22 between you and Gail Smith, on June 11, 2019.

23 And I meant to ask you about this document
24 a few minutes ago. But at the bottom of this
25 document Ms. Smith says -- first of all, I should

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1 ask you, do you recognize this document?

2 A Yes.

3 Q At the bottom, for the bottom of the page,
4 in her email to you, she says: "School counselors
5 are asking questions about when/how districts will
6 receive the funding or the counselor for Apex.
7 We've explained that the funding goes to the CSBs
8 and they hire the providers. My concern is a
9 comment that someone made in our meeting yesterday.
10 I believe it was Dante who said school districts
11 have to request the providers. Do
12 superintendents/principals know that? If they
13 don't, who is responsible for telling them?"

14 Do you see that?

15 A Yes.

16 Q And you replied, on June 11th: "It's
17 incredible to me that Dante implied that schools are
18 not asking for APEX therapists because they may not
19 know about the programs. The problem they do not
20 want to admit is DBHDD is not meeting the needs of
21 school systems. I've had several school
22 superintendents contact me frustrated with DBHDD
23 because they do not have the workforce to put APEX
24 therapists in schools. Effingham County, for
25 example, told me that their CSB said it would be

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1 years before an APEX would be available. The \$8
2 million more Governor Kemp gave to BHDD for Apex was
3 in the news across the State."

4 Do you see all that?

5 A Yes.

6 Q Can you tell me about the sentiments that
7 you're expressing here about DBHDD's operation of
8 Apex?

9 A The same as before, and it has been
10 improved.

11 Q Okay. And at the time did you feel
12 schools were aware of Apex but unable to secure
13 mental health services?

14 A No. It's my understanding from this, the
15 reference was that the process schools would have to
16 ask for Apex therapists through the CSBs, and the
17 implication was that the schools were not asking for
18 help. Well, that wasn't always the case. Dante
19 thought it was, but when I informed him that schools
20 are asking their CSB -- or through behavioral
21 health, DBHDD, for help, and then he looked into it
22 and he said we can do better with that.

23 So I went back to what I talked about
24 earlier, better communication between BHDD and
25 school districts, and they did improve that

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1 we think differently."

2 In what ways do you think that you need to
3 think differently with respect to GNETS?

4 A What services they have, and is there --
5 are they asking for different services, would be the
6 context of that.

7 Q Can you explain the idea that you're
8 putting forth in this email about incentivizing
9 local school systems to bring the student home?

10 A Incentivize is related to more awareness,
11 more aware of mental health issues, and that was
12 kind of the genesis of providing mental health
13 awareness training for educators, so they would know
14 more about what behavioral health issues look like
15 and how they're manifest.

16 Q And what did you mean when you said a
17 local school system could be incentivized to bring
18 the student home?

19 A If they understood more of mental health
20 issues, and perhaps that could in the long run
21 influence the IEP.

22 Q So that the child could be served in their
23 general education setting?

24 A If, if that was the most appropriate
25 place, yes.